

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

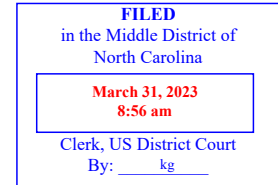
United States of America

v.

ANTONIO LAMONT SMITH

Case No.

1:23MJ162-1

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 13, 2022 in the county of Durham in the
Middle District of North Carolina, the defendant(s) violated:

*Code Section**Offense Description*

Title 18, United States Code,
 Sections 922(g)(1) and 924(a)(8)

Felon in Possession of Ammunition

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

/S/ Thomas Thrall

Complainant's signature

Thomas Thrall, ATF Task Force Officer

Printed name and title

On this day, the applicant appeared before me via reliable
 electronic means, that is by telephone, was placed under
 oath, and attested to the contents of this Criminal
 Complaint and attached affidavit in accordance with the
 requirements of Fed. R. Crim. P. 4.1.

Date: 03/31/2023 8:22 amCity and state: Durham, North Carolina
Judge's signature

Joe L. Webster, United States Magistrate Judge

Printed name and title

IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

AFFIDAVIT

I, Thomas Thrall, Task Force Officer, Bureau of Alcohol Tobacco Firearms and Explosives (ATF), being duly sworn, state that:

1. I am a Task Force Officer with the ATF and am currently assigned to the ATF Charlotte Field Division, Raleigh Field Office. I am also a sworn law enforcement officer with the City of Durham Police Department and have been since June of 2002. Prior to being assigned as a Task Force Officer with the ATF, I was assigned to the Durham Police Department's Vice- Narcotics Unit, Drug Interdiction Unit, HEAT Team, Gang Resistance Unit, and Uniform Patrol Division. I have completed the Police Law Institute training course on Arrest, Search, and Seizure. I have successfully completed training hours in classes for Narcotics Investigation, to include: Criminal Interdiction & Illicit Drug Awareness, Confidential Source Management, Pharmaceutical Drug Crimes, Hotel / Motel Interdiction, Stash House Interdiction, Mexican Drug Trafficking, Funding Terrorism through Narcotics, Reality of Undercover Operations, Use of Drug Informants, Drug Identification, Introduction to Interview and Interrogation, Interview Techniques & Deception Detection, Current Drug Trends, Introduction to Clandestine Laboratory Investigations, Introduction to Patrol Drug Investigations, Surveillance Operations, Command and Control Overview, Introduction to Conspiracy Investigations, Introduction to Highway / Rural Drug Investigations, Airport Narcotics Investigation, Overdose America, Police Intelligence, Risk Management in Undercover Operations, Ethical and Decisions in Law Enforcement, First Line Supervision, Criminal Interdiction & Identifying False Compartments, Operation JETWAY

Training, and Drug Interdiction Advanced Federal Asset Forfeiture. I have earned and received my Basic Law Enforcement Certification, my Intermediate Law Enforcement Certification, and my Advanced Law Enforcement Certification from the North Carolina Training and Standards Division. When assigned to the Uniform Patrol Division I was a certified Field Training Officer. I am certified by the State of North Carolina Training and Standards as a General Instructor with specialized certifications in Physical Fitness, Driving and Rapid Deployment. I have led and taught classes on these subjects as well as Controlled Substances and Traffic Stops. I have taught and / or instructed to sworn law enforcement, basic law enforcement recruit classes, and civilian classes. I have drafted or assisted in drafting more than 300 search warrants that have been presented to and signed by North Carolina Superior Court Judges, North Carolina District Court Judges, and Magistrates. I have also conducted and / or assisted in numerous criminal investigations to include gambling, prostitution, fraud, forgery, larceny, assaults (simple and serious), murder, firearms or weapons, and controlled substances. I am familiar with the customary practices, procedures, tactics, and terminology used by persons engaged in the business of manufacturing, selling, and distributing controlled substances in this area.

2. The information contained in this affidavit is based on my personal participation in this investigation and from information provided to me by other law enforcement officers. This affidavit is submitted for the limited purpose of establishing probable cause to support the issuance of a criminal complaint against Antonio Lamont SMITH, [hereafter referred to as SMITH]. As a result, I have not included each and every fact known concerning this

investigation but has set forth only those facts believed to be necessary for said purpose.

3. I respectfully submit that that there is probable cause to believe that on or about July 13, 2022, in the county of Durham, in the Middle District of North Carolina, SMITH did knowingly possess ammunition in and affecting commerce after having been convicted of a crime punishable by imprisonment for a term exceeding one year, and with knowledge of that conviction, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(8).

4. On July 13, 2022, Durham Police Officers responded to the Waffle House located at 3500 Hillsborough Road in Durham reference a reported gunshot wound. As officers arrived at the scene, the located two victims. The first Ravon BREEDEN who had suffered gunshot wounds to his left hip, left buttocks, and right calf. The second, Kamilah HORTON who had a gunshot wound to her left ankle. SMITH had left the scene prior to Durham Police Department arriving. The Durham Police Department was able to locate two, 9mm shell casings, and surveillance video of the incident.

5. Surveillance video from the Waffle House showed the following chain of event inside the Waffle House. SMITH and BREEDEN get into a verbal argument that turns into a physical altercation. SMITH walks towards the restroom area and steps through a hallway door into the kitchen area. SMITH retrieves a handgun from his bag that was wrapped in a white cloth. SMITH walked back out front to where the two victims were standing. SMITH discharged the handgun, shooting BREEDEN. As BREEDEN fell to the ground he crawled backwards away from SMITH. SMITH walked up and discharged

the handgun again at BREEDEN. HORTON who was with BREEDEN, was grazed by a stray bullet.

6. Durham Police Investigators identified and spoke to a Lyft driver who said that he picked up the shooter (SMITH) at the SureStay Plus Hotel, located at 3710 Hillsborough Rd in Durham, and drove him to the Waffle House prior to the shooting. Durham Police Investigators responded to the SureStay Plus Hotel and spoke with the clerk on duty. Officers gave a description of the shooter, and the clerk indicated that a man matching that description had recently checked into room #333. The clerk also confirmed that the room was rented under the name Antonio SMITH with a listed DOB of 12/05/1973.

7. On October 12, 2022, TFO Thrall interviewed Henrietta SMITH the sister of Antonio SMITH. Henrietta SMITH stated she spoke with Antonio SMITH after the shooting took place. Henrietta SMITH stated during a conversation Antonio SMITH told her that the male and female at the Waffle House had threatened him. Antonio SMITH did tell his sister that he was at the Waffle House and had a confrontation with a male and a female. Antonio SMITH did tell Henrietta SMITH that the male or the female had hit him in the head while they were at the Waffle House.

8. On July 22, 2022, Special Agent John Griffin with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a trained nexus examiner, conducted an examination of the recovered 9mm shell casings. SA Griffin determined that the shell casings were ammunition which was manufactured outside the State of North Carolina and therefore had traveled in and affected interstate commerce.

9. SMITH was previously convicted on July 16, 2009, in the Superior Court of Durham County of three counts of malicious conduct by a prisoner, for which he received an active sentence thirty-four to forty-one months. As a result, SMITH had knowledge that he had previously been convicted of a crime which was punishable by a term of imprisonment exceeding one year.

10. Based on the above information your Affiant respectfully requests the issuance of a criminal complaint against Antonio Lamont SMITH.

/S/ Thomas M. Thrall
Thomas M. Thrall
Task Force Officer
Bureau of Alcohol Tobacco Firearms and Explosives

Dated: March 31, 2023 8:22 am

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via reliable electronic means (telephone), was placed under oath, and attested to the contents of this written affidavit.



Honorable Joe L. Webster
United States Magistrate Judge
Middle District of North Carolina